



Australian Government
Australian Customs and
Border Protection Service

**INVESTIGATION INTO THE ALLEGED DUMPING OF
CERTAIN STRUCTURAL TIMBER**

EXPORTED FROM

**THE REPUBLIC OF AUSTRIA, CANADA, THE CZECH
REPUBLIC, THE REPUBLIC OF ESTONIA, THE
FEDERAL REPUBLIC OF GERMANY, THE REPUBLIC
OF LITHUANIA, SWEDEN AND THE UNITED STATES
OF AMERICA**

IMPORTER VISIT REPORT

Tilling Timber Pty Ltd

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED
THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND
MAY NOT REFLECT THE FINAL POSITION OF CUSTOMS AND BORDER
PROTECTION**

October 2011

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2 BACKGROUND AND PURPOSE

2.1 Background to the current investigation

On 5 August 2011, Building Supplies Group Holdings Pty Ltd (BSG), Hyne and Son Pty Ltd (Hynes) and Gunns Limited (Gunns) lodged an application requesting that the relevant Minister publish a dumping duty notice in respect of certain structural timber¹ exported to Australia from Austria, Canada, the Czech Republic, Estonia, Germany, Lithuania, Sweden and the United States of America. Following consideration of the application the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) initiated an investigation on 9 September 2011.

Public notification of initiation of the investigation was made in *The Australian* newspaper on 9 September 2011. Australian Customs Dumping Notice (ACDN) No. 2011/41 provides further details of this investigation and is available at www.customs.gov.au.

Customs and Border Protection's records indicated that Tilling Timber Pty Ltd (Tilling) had imported structural timber from Germany and Canada during the investigation period. Customs and Border Protection wrote to Tilling advising the company of the initiation of the investigation, requesting co-operation with the investigation and provided the company with a copy of the Importer Questionnaire to complete. Tilling was also provided with a list of its imports during the investigation period, extracted from Customs and Border Protection's import database. A number of transactions from the list were selected for verification (**confidential attachment IMP011**). Tilling completed the Importer Questionnaire, providing details regarding the company, overseas supplier information, imports and expenses.

2.2 Purpose of meeting

The purpose of this visit was to:

- confirm that Tilling was an importer of structural timber and obtain information to assist in establishing the identity of the exporter;
- verify information on imports of structural timber to assist in the determination of export prices from Germany and Canada;
- establish whether the purchases were arms length transactions;
- establish post exportation costs incurred in importing;
- identify Tilling's sales and customers and determine sales volume, selling prices and selling costs;
- recommend how export price may be determined under s. 269TAB; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

¹ Refer to the full description of the goods in section 3 of this report.

2.3 Meeting

2.3.1 Introduction

Tilling was advised that the Australian legislation dealing with dumping is consistent with the WTO Anti-Dumping Agreement. We gave an explanation of the investigative process and reporting timeframes.

The investigation was initiated following consideration of an application by BSG, Hynes and Gunns who account for the majority of Australian production of Australian structural timber.

Customs and Border Protection will examine exports to Australia of the goods during the investigation period (1 July 2010 to 30 June 2011) to determine whether dumping has occurred. Details of the Australian market will be examined from 1 July 2007 for injury analysis purposes.

We explained that where dumping was identified, and the dumping of itself caused material injury to an Australian industry, anti-dumping measures may be imposed. We also explained how anti-dumping measures apply after the Minister accepts a recommendation to impose such measures. In this investigation relating to structural timber the relevant Minister is the Attorney-General.

Tilling's attention was drawn to certain key dates within the investigation process, such as:

- the earliest date for any provisional measures, 8 November 2011. Provisional measures in the form of securities may be imposed from this date where the CEO is satisfied that there are sufficient grounds for the publication of a notice and securities are required to prevent injury to the industry continuing whilst the investigation continues;
- the date of the statement of essential facts (SEF), 28 December 2011. The SEF is a statement of facts that the CEO proposes to base a recommendation to the Minister in regards to the application;
- interested parties may lodged submissions in response to matters addressed in the SEF within 20 days of the SEF and;
- the due date for the report to the Minister is 13 February 2012.

We advised that there is provision in the legislation for the date of the SEF to be extended, with the Minister's approval, and in this event the subsequent dates for submissions to the SEF and the final report to the Minister are extended commensurately.

We informed Tilling that the CEO must terminate the dumping investigation so far as it relates to that exporter or country if satisfied that:

- dumping margins are negligible (exporter);
- negligible volumes of dumping are found (country); or
- dumping causes negligible injury (country). investigation

Interested parties may request that decisions of the CEO to terminate an investigation or of the Minister to impose measures be reviewed by the Trade Measures Review Officer.

We explained that should measures be imposed then exporters and/or the Australian industry may apply for the level of the measures to be reviewed each year. We also explained to Tilling that any duties imposed are interim duties and outlined the duty assessment process.

We advised Tilling that the information collected and verified would be used to assist in establishing the Australian market, used to establish export prices where required and used to assist in calculating a non-injurious price (NIP). We explained to Tilling how a NIP was calculated from an unsuppressed selling price and how a NIP could be used in setting the level of the measures.

We informed Tilling that our intention was to compile a visit report that outlines our discussion and explains any documentation that is collected in the process. We advised Tilling that any documentation and other material provided would be treated as commercial-in-confidence unless we are instructed otherwise. We explained the provisions of s. 16 of the *Customs Administration Act 1985*, which outlines our obligations in respect of confidential material.

Tilling was advised that when we have compiled a draft confidential report, we will forward this for a check of accuracy and completion. In addition, we will seek Tilling's view as to which information discussed in the report is confidential. This will allow Customs and Border Protection to remove such information for the purpose of formulating a non-confidential version of the visit report, intended for attachment to the public file. We explained that it is important that sufficient information be retained in the non-confidential version to at least provide a reasonable understanding of the substance of the confidential information. The public file system was explained to Tilling, as well as the means by which it can be accessed.

2.3.2 Meeting Details

COMPANY	Tilling Timber Pty Ltd
ABN	92 004 621 121
ADDRESS	31-45 Orchard Street, Kilsyth VIC
TEL NO	[REDACTED]
FAX NO	[REDACTED]
DATE	27 October 2011
PRESENT	
Tilling	Norm Tilling, Chairman Doug McLean, Chief Financial Officer Craig Kay, National Product Manager
Customs and Border Protection	Rod Jones, Operations 1 Carl Halpin, Operations 2

Prior to the meeting we forwarded an agenda to Tilling and advised them that we would require supporting documentation for the selected sales that had been previously identified. Tilling was co-operative and provided requested documents.

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3 THE GOODS**3.1 Goods the subject of the application**

The goods the subject of the application are described as follows:

Structural timber, being coniferous wood that is sawn or chipped lengthwise, capable of being used in structural applications in accordance with the Building Code of Australia and that:

- *Has a thickness exceeding 6mm;*
- *Has a cross-sectional area of less than 120cm²;*
- *Is untreated, or treated to meet the requirements of hazard class H1 or H2 as specified in Australian standard AS1604.1.*

For clarification, the goods DO NOT include weatherboards, laminated veneer lumber, glued laminated timber or timber treated to a level above hazard class H2 but DO INCLUDE end-jointed or finger-jointed structural timber.

Further detailed information on the goods is contained in ACDN 2011/41.

3.2 Tariff classification

Structural timber is classified to the following tariff subheadings and statistical codes of Schedule 3 to the *Customs Tariff Act 1995*:

Tariff sub-heading	Stat code	goods
4407		Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6mm
4407.10		coniferous
4407.10.10		Planed or sanded
	22	Douglas fir;
	23	radiata pine - treated with waterborne preservatives
	24	Radiata pine treated with other
	25	Radiata pine untreated
	33	Other

4407.10.99		Other
		Having a cross-sectional area of less than 120cm²
	08	Douglas fir;
	09	radiata pine - treated with waterborne preservatives
	10	radiata pine - treated with other
	11	radiata pine - untreated
	12	Spruce; pine, NSA; fir
	13	other

The general rate of duty is currently 5 per cent. Imports from Canada are subject to a preferential duty rate of 4 per cent and imports from the USA are free of duty. No tariff concession orders apply to the goods.

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4 COMPANY DETAILS**4.1 Commercial operations****4.1.1 Organisational structure of company**

Tilling is a private company founded in November 1963 where it started its first factory in Eltham Victoria. The Tilling Timber Group of companies comprises of Tilling Timber Pty Ltd., Tilling Timber (Sydney) and Tilling Timber Imports Pty Ltd. Tilling has [REDACTED] employees

The company has wholesale sales offices and warehouses in Brisbane, Sydney, Melbourne and Perth, as well as manufacturing facilities at its head office in Kilsyth, Victoria. It sells its products to unrelated distributors in South Australia and Tasmania.

4.1.2 Functions of company

Tilling advised that structural timber sales accounted for approximately [REDACTED] % of its business.

It has been importing structural timber since 1968 when it imported large size Douglas Fir (Oregon) timber that it cut to size for resale to outlets such as Bunnings and Mitre 10.

Over time Tilling moved to manufactured products such as compressed fibre board and orientated strand board. Tilling keeps structural timber on as part of its product range so that it can offer its customers a total design package.

Apart from solid softwood structural timbers Tilling's product range includes solid timber lining & cladding profiles, shingles, shakes, finished mouldings and LUSTRE. Lustre ceiling and lining boards are pre-finished with four coats of polyurethane in a satin finish.

Tilling carries its own unique range of Engineered Wood Products known as SmartFrame. Products in this range include SmartLam glued laminated beams, Smart LVL, SmartJoist I-joists plus the state of the art software program and technical library in the SmartFrame Design Compendium.

Tilling has a manufacturing facility located at Kilsyth Victoria, and includes dehumidifying drying kilns, hydromat Weinig moulders and a continuous pre-finishing line. A fully automated SmartFrame cutting system which provides pre-cut penetrations in SmartJoists has recently been installed.

Tilling also offers design services, its' SmartFrame Design Centre team is made up of Engineers, Building Designers, Builders, Building Surveyors and F&T Detailers.

4.2 Accounting

Tilling advised that its financial year is from 1 July to 30 June and that it uses Proxix business accounting and inventory management software.

Tilling's accounts are audited by [REDACTED].

4.3 Relationship with suppliers of the GUC

Tilling advised that it imports the majority of its structural timber from [REDACTED] Germany. [REDACTED]

[Redacted] [Supplier History]

We noted that some imports by Tilling from [Redacted] were listed as country of origin 'Austria'. Tilling advised [Redacted] [Redacted] All imports listed as origin 'Austria' would be from the [Redacted] mills in Germany.

Tilling said that it has a long term relationship with [Redacted] [Redacted] [suppliers]. Tilling approached the mills to manufacture structural timber to the Australian standards, it explained and provided details on the standards. Tilling explained it based its national product manager in Germany, who worked in conjunction with the University of Stuttgart to assist the [Redacted] mills to manufacture to meet the Australian standards of AS1748 and AS4490 required for structural timber.

Tilling advised its imports from [Redacted] are red and white Baltic pine kiln dried to meet the F5, MGP12 and MGP 10 grades, a significant proportion of the timber is treated to H2.

Tilling said that it has an ongoing agreement, renewed yearly, with [Redacted] to be the exclusive distributor of [Redacted] products in Australia. Tilling provided a copy of the latest agreement which is at it **confidential Attachment IMP009**.

Tilling advised that there is no relationship between it and [Redacted] other than that of a normal commercial relationship.

Tilling also sourced structural timber from [Redacted] Canada, the timber it imports from Canada is Douglas fir, hemlock and spruce kiln dried to meet the F7 and MGP 10 grades, the majority of which are treated to H2.

Tilling advised that there is no relationship between it and [Redacted] other than that of a normal commercial relationship.

Tilling also purchases structural timber from the Australian industry.

4.4 Relationships with customers

Tilling advised that it has no relationship with any of its customers other than a normal commercial relationship.

5 IMPORTS**5.1 Volume of trade**

Based on data from Customs and Border Protection's import database, Tilling imported [REDACTED] m³ of structural timber during the investigation period.

Tilling sourced the majority of its imports from Germany with a smaller volume from Canada. The following table summarises the export volumes from both countries during the investigation period.

[Confidential table removed]

Tilling advised that the details in the importer list were an accurate and complete record of its imports.

5.2 Ordering and pricing

Tilling advised that it has a monthly ordering cycle for its imports. Pricing is set for four months with a volume forecast. Volumes are not set, orders are discussed in advance with suppliers and sales representatives in Australia.

Tilling is sent weekly production lists as to the progress of its orders, these lists are passed onto its sales representatives to sell the volumes, preferably on the basis of off ship so that Tilling has no warehousing involved. The majority of the imports are delivered to Tilling's warehouses and then delivered to customers in packs.

Terms from [REDACTED] in Euro with payment of [REDACTED] days by T/T from bill of lading date. The terms with [REDACTED] under the contract are [REDACTED].

Terms from [REDACTED].

Tilling stated that it did not receive any rebates or discounts from [REDACTED] during the investigation period and that the price invoiced is the price paid.

5.3 Forward orders

Tilling provided a listing of its forward orders [REDACTED] (**confidential attachment IMP010**). Tilling advised it had no forward orders with [REDACTED] had ceased supply arrangements on the initiation of the investigation.

5.4 Verification of imports

Tilling completed an importer transaction form prior to the visit, detailing the into store costs for the 19 selected shipments during the investigation period (**confidential attachment IMP011**).

Tilling provided the following documents for each of the selected shipments as listed on the importer transaction form:

- Bill of lading
- Commercial Invoice

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- Packing List
- Importation Costs Invoices

These documents are at **confidential attachments IMP001 to IMP008**.

Tilling said that for imports from [REDACTED] it takes forward cover contracts in Euro in rolling blocks every six months and may also spot buy to cover shortfalls. There is no finance charge for these contracts as the banks margin is built into the offered rate of exchange on the contracts.

Data reported in the importer transaction form was checked to the above source documents and against the Customs and Border Protection import database. There were some minor discrepancies as Tilling's import costing system does not have all the local charges before the shipment is closed and receipted into the yards. Tilling's computer system allows for the local delivery costs at a standard rate if they have not received the invoice. The instances in which Customs and Border Protection noted these variations were not significant and generally the standard costs were higher than actual costs.

5.5 Import costs

The average Australian into store costs were calculated for the selected shipments.

Germany, [REDACTED].

Cost item	Included items	Average cost (AUD/m3)
Ocean Freight insurance		[REDACTED]
Port service charges including customs and Aquis fees	Destination port charges, destination terminal security fee, destination shipping line doc fee, destination terminal handling fee,	[REDACTED]
Delivery to warehouse	Delivery to warehouse, storage, lift charges and fees.	[REDACTED]

Duty is payable on structural timber imported from Germany at 5%.

Canada, [REDACTED].

Cost item	Included items	Average cost (AUD/m3)
Ocean Freight insurance		[REDACTED]
Port service charges including customs and Aquis fees	Destination port charges, destination terminal security fee, destination shipping line doc fee, destination terminal handling fee,	[REDACTED]
Delivery to warehouse	Delivery to warehouse, storage, lift charges and fees.	[REDACTED]

Duty is payable on structural timber imported from Canada at 4%.

Calculations on import costs are at **confidential appendix IMP011**.

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5.6 Selling, general and administrative (SG&A) costs

Tilling identified SG&A costs from its Profit and Loss statement for 2011. Freight costs and other costs identified in the importer transaction form are excluded from the SG&A costs. Tilling calculated an SG&A cost based on those identified costs over revenue applied to the sales revenue for each shipment. The identified SG&A cost was [REDACTED] %.

Tilling advised that its accounts for 2011 had not yet been provided, we sighted a copy of the 2010 accounts audited by [REDACTED] which noted no qualification and that the accounts were kept in accordance with Australian Accounting standards and Australian Corporate law.

We sighted a copy of the un-audited 2011 accounts which matched to the 2011 Profit and Loss statement.

5.7 Who is the importer?

It was noted that Tilling:

- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading; and
- arranges delivery of the goods to one of its warehouses or direct to its customers.

Tilling is considered to be the beneficial owner of the goods at the time of importation, and therefore the importer.

5.8 Who is the exporter?

Customs and Border Protection will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.

Where there is no principal in the country of export Customs will normally consider the exporter to be the person who gave up responsibility for the goods as described above.

The documentation provided in relation to the selected shipments ordered from the following exporters was reviewed for:

[REDACTED]
[REDACTED]

Upon review of this documentation and other information supplied by Tilling, we are satisfied that in respect of [REDACTED] and [REDACTED]:

- Tilling orders directly from the suppliers;

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- the commercial invoices identify the suppliers;
- the bills of lading identify the suppliers as the shipper of the goods;
- the suppliers arrange and pay for the goods to be transported to the wharf and loaded onto the ship in the country of export; and
- Tilling pays the exporters directly.

Based on the information available we are satisfied that ■ is the exporter of the goods from Germany and ■ is the exporter of the goods from Canada.

6 AUSTRALIAN MARKET

6.1 General

Tilling said that it chooses not to compete with the Australia industry on price and that it fills niche sectors or gaps in the market which the industry does not or cannot supply.

Tilling said that in Queensland the 70mm size is the preferred size, however Tilling said this size was not popular with the Australian mills. Tilling further said that the Australian mills preferred to manufacture a limited size range so as to increase production efficiencies.

[REDACTED]

[REDACTED] [business strategy]

Tilling advised that Western Australia was their other niche market and that the sole Australian manufacturer in that state had advised Tilling that under normal market demand it could only supply 60% of the market there.

Tilling said that it had a treatment facility in WA to treat its imported timber for European house borer which was a pest in WA but was not in the eastern states.

6.2 Distribution and selling system

Tilling has its own distribution and warehouses centre in all states except South Australia and Tasmania where independent distributors are used. Delivery is included in the invoice price.

Tilling sells to retailers, distributors and truss manufacturers. Some sales are ex-wharf direct off the ship to the customer, whilst the majority are delivered into store. There is also a small amount of cash sales made. All sales except the ex-wharf sales are in pack sizes.

Generally no further work is done to the imported timber except for treatment for the borer in WA.

Tilling standard terms are [REDACTED] with free delivery to customer yard in metro areas or nominated depot for regional customers. The majority of customers on [REDACTED] day accounts a small group have [REDACTED] day terms.

Large customers have rebates in place and some major customers also have a settlement discount as well.

6.3 Sales volume and selling prices in Australia

Tilling provided a complete transaction by transaction list of its sales of structural timber for the investigation period. The sales listing is only available electronically due to its size.

The listing details includes customer, state, product code (specifying standard e.g. M10) and size, quantity, invoice value and cost.

6.4 Sales verification

We sighted the Profit and Loss statement for Tilling for 2011 and identified the sales of structural timber in that statement which matched (with a minor variance) to the sales listing Tilling provided.

6.5 Profitability of sales

Tilling provided an estimate of the profitability of the sales from each shipment in the importer transaction form based on the weighted average sales prices received on each shipment.

Tilling calculated the profitability of the sales to be between [REDACTED] %.

We calculated profitability for the imports from Germany of [REDACTED] % and for the imports from Canada of [REDACTED] %. Our calculations of importer costs and profitability are at **confidential appendix IMP011**.

7 ARMS LENGTH

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the legislation requires that the relevant sales are arms length transactions.

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller;
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Furthermore, where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter (whether before or after exportation) for a particular price; and
- the Minister is satisfied that the importer, whether directly or through an associate or associates, sells those goods in Australia (whether in the condition in which they were imported or otherwise) at a loss;

The Minister may treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.

We noted that all sales on the selected shipments were profitable.

We did not find any evidence that:

- there is any consideration payable other than price; or that
- the price is influenced in Tilling's favour by a commercial or other relationship between Tilling and its suppliers.

We confirmed during our verification that the price invoiced by the exporters, was the price paid by Tilling.

Taking into consideration the factors listed above, we consider that sales between [REDACTED] and Tilling and [REDACTED] and Tilling are made at arms length in terms of s. 269TAA.

8 General comments

Tilling said that whilst structural timber market accounts for about █% of its business it is a low margin high volume product, if it reduced the volume of its sales then it would have to reduce its overheads which would mean reducing staff numbers █.

Tilling told us that the Australian industry cannot supply the market and is limited by the amount of sustainable logging timber available to it. Imports are an essential part of the market and cannot be used just to meet demand peaks as overseas supplies also require the certainty of ongoing contracts.

Tilling consider that the Australian industry has been affected by the current economic conditions including the low housing starts which has an impact on demand for structural timber.

Tilling also consider that the industry is selective in production and sales it makes to the structural timber market where it concentrates on the major products such as the 90mm sizes whilst neglecting the 70mm sizes. Tilling believe that it was more profitable for Australian producers to treat a 6" piece of timber to a H3 standard than to split the timber into 3" sizes and sell into the structural market.

9 RECOMMENDATIONS

Based on the information available, for the goods exported by [REDACTED] to Tilling and by [REDACTED] to Tilling:

- the goods have been exported to Australia otherwise than by the importer;
- it appears at this time that the goods have been purchased by the importer from the exporter;
- the purchases of the goods by the importer were arms length transactions; and
- the goods are subsequently sold by the importer to a person who is not an associate of the importer.

Subject to further inquiries with the exporters for confirmation of information supplied by Tilling, we are satisfied that the export price for certain structural timber imported by Tilling from [REDACTED] can be determined under s.269TAB(1)(c), having regard to all the circumstances of the exportation and by Tilling from [REDACTED] can be established under s.269TAB(1)(a) using the invoice price less any costs in respect of matters arising after exportation.

We consider weighted average FOB export prices for [REDACTED] (in A\$/m³) can be estimated from the Customs and Border Protection import data base however export prices cannot be determined by type (i.e. grade and dimension) because the types of structural timber cannot be readily identified.

10 ATTACHMENTS AND APPENDICES

IMP001 – IMP008	Source documents for selected import transactions
IMP009	Trading Agreement
IMP010	Forward Orders
IMP011	Importer Verification Spreadsheet Calculations